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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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+ **W.P.(C) 7335/2018**

OM PRAKASH DAGAR Petitioner

Through: Mr Amit Dubey, Advocate.

versus

UNION OF INDIA AND ANR Respondents

Through: Mr J.K. Singh, Standing Counsel for
UOI with Mr Saurabh Sharma and Mr
Amit Kumar, Advocates.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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27.01.2020

1.Learned counsel for the Respondents today has handed over in the Court a copy of the order dated 26th December, 2019, rejecting the Petitioner's request for transfer by pointing out that he is a promotee ASI from the rank of Constable and that in terms of para 5 (b) (1) of the Directive-32, he cannot be considered for transfer in the rank of Sub-Inspector ('SI').

2.Learned counsel for the Petitioner refers to para 3 (d) of the letter dated 2nd February, 2010 issued by the Railway Board on "posting of husband and wife at the same station". The Court finds that what is stated in para 3 (d) is only for a sympathetic consideration of the request. In other words, no mandamus can be issued to the Respondents that they should transfer the Petitioner on the grounds mentioned by him. The action of the Respondents cannot be characterized as unreasonable.

3. Learned counsel for the Petitioner then questions the classification brought about by the Respondents between two sets of employees in the same organization i.e. the direct recruits and the promotees, and whether in the matter of transfer, a differential approach can be adopted?

4. The Court finds that for the purposes of transfer, and in particular ‘inter-zone transfer’, within the same organization like the RPF, the Petitioner cannot insist that promotee SIs should be treated on par with holders of other posts which have an element of direct recruitment in them. The classification in this regard cannot be said to be unreasonable, as any inter-zone transfer of a promote officer, would undoubtedly have an impact on not only the intra-zonal seniority list maintained, but even the chances of promotion of those in the feeder cadre. Therefore, the distinction between the posts filled up only by way of promotion and those by direct recruitment and restricting the facility of inter-zone transfer to those in the latter category is based on an intelligible differentia and has a nexus with the objective mentioned.

5. There is no merit in the petition and it is accordingly dismissed. No costs.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JANUARY 27, 2020/rd